# City Attorney



#### Mission Statement

It is the mission of the City Attorney's Office to serve the citizens of Long Beach by providing to our clients accurate and timely legal counsel and representing them aggressively in State and Federal Court, consistent with the powers and duties conferred upon the City Attorney's office by the City Charter.

#### **Mission Statement**

The City Attorney's Office is committed to providing superior, cost effective legal services to the City, consistent with the highest professional and ethical standards.

The goal of the City Attorney's Office is to protect the public's interest and provide sound legal advice and counsel to the City, its elected and appointed officials, departments, boards and commissions.

The Office will at all times strive to protect and preserve the legal rights and assets of the City and will vigorously enforce its municipal regulations in order to maintain and improve the quality of life of its residents.

#### Overview

The City Attorney's Office handles all of the civil legal affairs of the City of Long Beach. The duties of the City Attorney are set forth in the City's Charter, which provides that the City Attorney shall be the sole and exclusive legal advisor of the City, City Council, and all City commissions, committees, officers and employees. As such, the City Attorney is charged with municipal responsibilities as complex as any in the State.

The City Attorney's office represents the City on affirmative and defensive civil litigation, legislative and legal issues, and administrative code enforcement proceedings.

#### **Departmental Counsel Division**

The Departmental Counsel Division serves as general legal counsel to the City Council, City Officers, and all Departments, Divisions and Bureaus of the City. The Departmental Counsel Division also provides legal advice to forty-six (46) of the City's Boards, Committees and Commissions including the Planning Commission, Civil Service Commission, Housing Authority, Board of Water Commissioners, Board of Examiners Appeals and Condemnation, Citizen Police Complaint Commission, Airport Advisory Commission, the Long Beach Community Investment Company, the Successor Agency to the Redevelopment Agency of the City of Long Beach, and the Oversight Board, the Marine Advisory Commission, the Parks and Recreation Commission, the Sustainable City Commission, the Technology and Innovation Commission, the Cultural Heritage Commission, the Senior Citizen Advisory Commission, and the Human Relations Commission.

In addition to providing legal advice, the Division's attorneys proactively investigate and pursue all manner of nuisance related matters in order to improve the quality of life of Long Beach's residents. The Division attorneys also review, edit, draft and negotiate various transactional documents including contracts, leases, permits, easements, and development agreements as well as drafting ordinances, resolutions, legal opinions and legal memorandums for all of the City's various departments. The Departmental Counsel Division is responsible for representing the City in CEQA and Land Use writ actions, and also provides legal advice on personnel matters, including litigating various contested personnel matters in both State and Federal courts.

### **Litigation Division**

The Litigation Division defends the City and its agencies, departments, divisions and employees in lawsuits filed in both State and Federal court. Such litigation includes, but is not limited to, personal injury and property damage, alleged civil rights violations, excessive force, labor and employment disputes, dangerous conditions of public property, breach of contract and real estate issues.

The Litigation Division also pursues affirmative litigation matters which seek to recover money due and owing the City for such matters as breach of contract, damage to City property, injuries suffered by City

employees acting in the course and scope of their employment, various small claims litigation matters, as well as various debts or financial obligations owed to the City.

Over the last year, the Litigation Division prevailed on seven (7) cases tried to verdict, including cases involving claims that the City violated the U.S. Constitution and a case involving a significant traumatic brain injury. The Division also had at least nine (9) cases dismissed by motion, sparing the costs of trial.

Beyond litigating matters, where appropriate, the Division has resolved several cases with reasonable settlements, including a wrongful death case settled for \$2,500.

#### **Harbor Division**

The Harbor Division provides legal counsel and advice to the Board of Harbor Commissioners and the Port of Long Beach (Harbor Department), the second-busiest seaport in the United States with cargo valued annually at \$180 billion. The Harbor Division attorneys work on all transactions related to the Port's operations whose annual revenues exceed \$700 million and on formulating and implementing the "Green Port Policy" which mitigates the environmental impacts of Port operations.

Harbor Division attorneys also serve as legal counsel to the Alameda Corridor Transportation Authority (ACTA), draft and approve all Harbor Department leases, permits and contracts, prepare all resolutions, ordinances and other regulations for the Board of Harbor Commissioners and the Harbor Department, and provide advice on environmental matters, energy issues, construction projects and real property transactions.

#### **Workers' Compensation Division**

The Workers' Compensation Division consists of attorneys who handle the litigated claims and claims staff who are responsible for providing medical and indemnity benefits to injured employees covered by the City's Self Insured and Self-Administered Workers' Compensation Program.

This Division strives to effectuate the purpose of California's Workers' Compensation law by ensuring that bona fide claims are handled expeditiously while, at the same time, vigorously defending the City against claims that lack merit. This Division continues to work closely with City departments to reduce costs, while at the same time improving service.

### **Departmental Counsel Division**

- Land Use and CEQA. Provided advice to the Development Services Department and Planning Commission on numerous land use and CEQA related matters such as the City's consideration of medical marijuana regulatory ordinances, wireless telecommunications and siting, and the litigation of several significant CEQA lawsuits.
- Southern California International Gateway (SCIG) Litigation. Provided advice and support and
  participated in litigation efforts regarding a project of the Port and City of Los Angeles and the BNSF
  Railroad to construct a large rail facility adjacent to residential and other sensitive land uses in the
  City of Long Beach.
- San Diego Freeway (I-405) Widening Project. Provided litigation advice and support to the City Council and City Planning and Public Works staff regarding CalTrans and the Orange County Transportation Authority's failure to provide adequate mitigation measures for the City of Long Beach in connection with a proposed project to widen the I-405 Freeway between State Route 73 (SR-73) and Interstate 605 (I-605).
- Long Beach Airport. Provided advice and opinions and attended community meetings related to the City's Airport Noise Compatibility Ordinance, the allocation of supplemental air carrier flight slots, and the possibility of a Federal Inspection Station (FIS) and customs facility.
- Medical Marijuana. Drafted two separate ordinances pursuant to City Council direction regarding medical marijuana. Attended meetings with City Council and Planning Commission, drafted ballot title and summary for medical marijuana businesses initiative, and issued cease and desist letters for illegal medical marijuana dispensary or cultivation operations within the City.
- Long Beach Civic Center. Provided legal analysis and day-to-day counsel throughout the exclusive negotiating period. Assisted with the drafting and passage of state legislation authorizing the publicprivate partnership. Drafted and negotiated all agreements evidencing the transaction, including the Project Agreement. Provided counsel with respect to the sale and development of real estate parcels in connection with the project.
- RDA Dissolution. Provided legal analysis and counsel throughout the ongoing State-wide Redevelopment Dissolution process, including the ongoing administration of the Successor Agency and Oversight Board. Drafted and negotiated several agreements for the purchase and sale of former RDA properties in accordance with an approved Long Range Property Management Plan.
- Technology and Innovation Department. Staffed the Technology and Innovation Commission meetings. Assisted in the negotiations on ERP agreement (replacement technology for current payroll, timekeeping and personnel system).
- Minimum Wage Ordinance. Drafted minimum wage ordinance pursuant to the direction of the City Council; researched issues related to the ordinance, such as tip credits and preemption by State statute.
- Election Issues. Performed research related to election issues. Provided support to the City Clerk at
  the primary election; drafted resolutions and ordinances required for the consolidated/coordinated
  general election with LA County. Drafted resolutions necessary to place TUT measure on the ballot,
  including the resolution establishing a Citizen's Advisory Commission.
- Ethics Advice. Provided advice relating to gifts, conflicts of interest, mass mailings, economic disclosure filings for City officials and employees. Requested advice from the FPPC on issues related

to Government Code section 1090, the Political Reform Act and Form 700 filings. Provided training to various City boards and commissions on Brown Act, PRA and conflict of interest laws.

- Public Works. Drafted Amendment to NPDES ordinance to allow progressive enforcement and other storm water compliance measures as required by the State Water Quality Control Board. Provided advice to the City Manager's office regarding a potential lawsuit related to the Clean Water Act and the issuance of City fireworks permits. Coordinated with outside counsel on affirmative litigation related to PCBs in Long Beach water. Provided advice to transportation engineering staff on a variety of parking and traffic issues including "rainbow" crosswalks, preferential parking districts, parking meters and City parking lots. Drafted ordinance regulating use of "hoverboards" in business districts.
- Library. Worked with Library on removal of art gallery program due to First Amendment concerns.
- Financial Management Purchasing. Worked on a wide variety of sales tax, collections and fee issues; bids, RFPs and contract issues.
- Business Improvement Districts. Provided advice to City staff related to annual ordinances and resolutions required to administer City's ten merchant-based and property-based business improvement districts.
- Economic Development Commission. Provided advice and staffed Commission meetings, including public hearings on a proposed minimum wage ordinance.
- Pedestrian Safety Advisory Commission. Provided advice and staffed the re-launched PSAC, an eleven-member citizen commission regulating crosswalks, required by initiative ordinance.
- 2016 General Elections. Assisted the City Clerk with ballot verification, tabulation and advice for the general and runoff elections for City Council seats.
- Ballot Initiative Process. Provided advice to City Council and City Clerk regarding the placement of the Proposition A and B sales and use tax related measures on the 2016 General Election ballot.
- Billboard Ordinance. Prepared an ordinance and provided advice related to the billboards in the Landscaped Freeway Segment areas of the City.
- Cell Sites on City Rights-of-Way. Provided advice to Public Works and Development Services regarding the location of cell sites on City property in public right-of-way areas.
- Pedestrian Master Plan. Prepared resolution adopting the Downtown And Transit-Oriented Development (Tod) Pedestrian Master Plan, as a Technical Appendix to the Mobility Element of the Long Beach General Plan.
- Midtown Specific Plan. Prepared ordinances and implementing resolutions in connection with the adoption of the Midtown Specific Plan with the goal of bringing new high-quality development to the transit corridor along Long Beach Boulevard.
- Transitional and Supportive Housing Ordinance. Prepared an ordinance amending the Municipal Code to add "Transitional Housing" and "Supportive Housing" as permitted uses in any residential zoning district; and prepared a Resolution submitting Ordinance to the Coastal Commission as an implementing ordinance of the Local Coastal Program (LCP)
- The Current. Provided advice and prepared ordinances and resolutions regarding The Current development project and transportation improvement fee credits.

- Historical Landmarks. Provided advice and drafted ordinances designating the properties at 260 E.
   San Antonio Drive, and former Fire Station No. 12, located at 6509 Gundry Avenue, as historical landmarks.
- Proactive Rental Housing Inspection Program Ordinance. Provided advice regarding the City's existing Proactive Rental Housing Inspection Program.
- Abatement of Dangerous Nuisance on Hill Street. Provided advice and obtained Court Order relating to the demolition of two unpermitted homes that were a nuisance and hazard on Hill Street near Temple Avenue.
- Prosecuted fifty-nine (59) Nuisance related cases within the past 12 months, which included properties with vacation rental, group home, and sober living issues, properties housing prisoners who are under "supervised release" pursuant to AB 109 (Public Safety Realignment), as well as properties which are housing active gang members who were causing disturbances affecting both adjoining tenants and residents in the surrounding neighborhood. In addition, prosecuted forty-three (43) evictions pursuant to the Long Beach drug abatement ordinance.
- 3942 Knoxville Avenue. Addressing both Code Enforcement and Nuisance related issues associated with this residence, which have been a haven for criminal activity and drug use for the past thirty (30) years and have been the bane of the community. Instituted a "Substandard Building" case against the residence for numerous code and nuisance related violations, and successfully executed an Order to Vacate the premises and effectively shut down the property by having the locks changed and boarding up all the windows and doors. As a result, the owner subsequently sold the residence to a new owner who renovated the entire structure and backyard to the delight of the entire community.
- 3262 San Anseline Avenue. Addressing both Code Enforcement and Nuisance related issues associated with this residence, which was the meeting place for a group of young adults and teenagers affiliated with a street racing club. This club would race cars at high speeds down neighborhood streets, causing loud and disruptive noises throughout the neighborhood resulting from screeching tires and loud, modified engine mufflers. This club would also disrupt the general health, safety and welfare of the community by performing major car repairs in the driveway of the residence at all hours of the day and at night. Declared the residence a Nuisance as a result of the activity and effectively curtailed the actions of the street racing club and effectively abated the nuisance activities surrounding the residence.
- 4151 E. Fountain Street. Addressing Nuisance related issues associated with a group home which provided behavioral health services to children and their families. This group home, which was located in a densely populated residential neighborhood, was unable to keep its clients from interacting with residents in the neighboring community which affected the general health, safety and welfare of these residents and the neighboring community. While addressing the nuisance related activities that were emanating from the group home, pointed out a number of operating issues with the group home to the California Department of Social Services which is the state agency responsible for licensing these types of group homes and for ensuring that the services provided are in compliance with the applicable state regulations. The group home eventually decided to close down after it was unable to effectively address both the nuisance related activities and its own operating issues with the California Department of Social Services.
- Civil Service Commission. Represented the Long Beach Civil Service Commission during employee disciplinary hearings involving City employees.

- Labor Negotiations. Assisted in providing legal analysis and counsel in on-going labor negotiations between the City and its largest employee union – International Association of Machinists and Aerospace Workers.
- PERB. Represented the City in numerous actions before the Public Employment Relations Board (PERB) regarding alleged unfair labor practice charges brought on behalf of City employees and employee unions.
- Employment Law Writs and Appeals. Prepared opposition to writ petitions and represented the City in Superior Court on Writs of Appeal brought by City employees challenging City imposed discipline.
- Writ Defense. Successfully defended the City against Writ of Mandates brought by employees who
  were terminated due to egregious off-duty conduct involving assault and dereliction of duty.
- Legal Counsel and Employment Advice. Provided legal analysis and counsel to the Department of Human Resources and various other City departments on legal issues related to employee discipline procedures and Federal and State labor and employment laws.
- Training. Provided sexual harassment and hostile work environment training at the Long Beach Fire Department Training Center for new employees, and Brown Act and Open Meeting training for various commissions and committees.
- Long Beach Community Investment Company. Provided legal advice to the former Long Beach
  Housing Development Company in its new post-Redevelopment role with its expanded powers to
  apply for and expend funds for the purposes of affordable housing, economic development and
  neighborhood improvements.
- Utilities. Provided legal counsel to staff in connection with the conversion of all gas meters to an automated meter-reading system. Drafted and negotiated several agreements related thereto.
- Fire Department. Provided legal advice and counsel to the Fire Department for activities and services throughout the City and responses to Public Records Act requests and subpoenas.
- Police Department. Provided legal advice to the Police Department regarding various issues including search and seizure, appropriate and lawful responses to homelessness issues, updating departmental policies, and responding to Public Records Act requests and subpoenas.
- Disaster Preparedness and Emergency Communications. Provided legal advice and counsel to the Disaster Preparedness and Emergency Communications Department and attended various training opportunities to better prepare for any and all disasters.
- Citizen Police Complaint Commission. Provided legal advice to the Citizen Police Complaint Commission regarding policies and procedures, meetings, confidentiality requirements, and Public Records Act requests, and attended meetings upon request.
- Impact Fees. Provided legal advice to the Financial Management Department regarding the Transportation Improvement Fee, Parks and Recreation Facilities Fee, Fire Facilities Impact Fee, and Police Facilities Impact Fee, and drafted a resolution approving the annual and five-year reports for said fees.
- Water Quality Regulations. Assisted the Stormwater Division of Public Works Department in obtaining NPDES permit from the Regional Water Quality Control Board and establishing cooperation agreements with surrounding jurisdictions to regulate water quality.

- Special Events. Provided advice and counsel to the Office of Special Events on First Amendment issues related to demonstrations, parades and marches throughout the City.
- Workforce Development. Provided advice and counsel to the Workforce Development Bureau related to various programs. Prepared and/or reviewed all contracts between City and State, City and nonprofit providers for the delivery of job training and workforce development services.
- Parks, Recreation, and Marine. Provided advice and counsel to the Department of Parks, Recreation and Marine for activities and services throughout the City and in the Tidelands area.
- Underground Storage Tanks. Provided advice and counsel regarding environmental compliance for the City's 26 underground fuel storage tanks.

#### **Litigation Division**

- With six deputies, handled approximately 200 cases involving a wide variety of issues, including claims of alleged police misconduct, 1st Amendment and 14th Amendment violations, election law disputes, breach of contracts, suits brought under the Public Records Act, employment discrimination cases and public liability cases, including catastrophic injury cases and wrongful deaths. While many of these cases are ongoing, the majority of cases that were resolved resulted in a favorable outcome for the City.
- Tried eight cases to verdicts, including cases involving catastrophic personal injuries. Seven of these
  cases resulted in defense verdicts. During this period, eleven cases were dismissed by the Plaintiffs
  for a waiver of costs, including two cases wherein the claim involved an alleged wrongful death.
- Resolved a number of cases with pre-trial motions. Seven cases were resolved in the City's favor by summary judgment (judgment in favor of the City entered by the court before trial), including a challenge to a decision by the City Clerk to refuse to place a medical marijuana ordinance on the ballot for a special election where the ballot did not have the requisite verified signatures. Four cases were resolved in the City's favor by demurrer, one of which included a \$2 million claim by the Los Angeles Department of Water and Power.
- Pursued or defended 36 cases in small claims court over the year. The City prevailed on the vast majority of the cases wherein the City was suing as a plaintiff or was defending itself.
- Handled approximately 490 Government Tort Claims. Of the claims which required a payout, only two exceeded \$5,000.
- Recovered approximately \$202,750 for monies owed and for recovery of workers' compensation benefits paid as a result of the negligence of a third party.
- Provided training to City departments on issues ranging from investigations, police use of force, search and seizure laws, employment discrimination, progressive discipline, and Americans with Disabilities Act (ADA).

#### **Harbor Division**

• Environmental and Business Incentives. Drafted new tariffs and other measures to continue financial incentives for users of the Port of Long Beach to reduce their impact on the environment.

- New Long Beach Civic Center. Assisted the Harbor Department in negotiating that portion of the new Long Beach Civic Center project which will house the Port Headquarters and related areas such as Port parking.
- Project Labor Agreement. Provided legal advice and drafting on a Port-wide Project Labor Agreement.
- Procurement. Assisted the Harbor Department in the procurement of the new state-of-the-art Long Beach Harbor fireboats.
- Construction and Development. Provided contracting, real estate, and compliance advice for multiple construction projects including the Middle Harbor Container Terminal and the Gerald Desmond Bridge replacement project, each with a budget of over \$1 billion.
- Community Mitigation Grants. Assisted the Harbor Department in the preparation of the Community Impact Study which will facilitate the Community Grants Program and Investment Plan.
- Rail Projects. Provided substantial legal support for environmental analysis and documentation of on-dock, near-dock, and short haul rail projects. These rail projects have the potential to reduce overall freight movement emissions but can have adverse impacts on local residents if not located and planned appropriately.
- Financial Restructuring. Facilitated ACTA refunding bonds in excess of \$590 million, which refunding
  is expected to eliminate payments by the Port of Long Beach for any shortfalls that ACTA may have
  in the next ten years in connection with ACTA's debt.

#### **Workers' Compensation Division**

- Received 534 newly reported claims, including 114 newly litigated claims, for which workers' compensation benefits were administered. Total open claims decreased very slightly over the year from 2,200 to approximately 2,150, for which ongoing benefits and services were provided.
- The City of Long Beach continues to realize annual savings and successes through partnership with its pharmacy benefit manager, NPS. Over the last year, the City achieved an additional reduction of 3.10% (\$36,159) in pharmacy payments.
- Issued a Request for Proposal to select a new Bill Review Provider to manage and monitor medical
  payments in accordance with the State's Official Medical Fee Schedule. As a cost savings measure,
  the expected savings will be at least 60% over the billed medical payments from providers.
- The published Profile Audit Review (PAR) scores for the State Division of Workers' Compensation Audit Unit ranked Long Beach third (3rd) in the State amongst those entities audited, and first (1st) amongst the ten (10) self-insured/self-administered employers including, five (5) other cities. The City's high audit ranking highlights the efficiencies of the City Attorney's Workers' Compensation claims team, and is a recognition of its commitment to excellence.

# **Financial Summary by Category**

	Actual	Adopted*	Adjusted*	Proposed*	
	FY 15	FY 16	FY 16	FY 17	
Revenues:					
Property Taxes	-	-	-	-	
Other Taxes	-	-	-	-	
Franchise Fees	-	-	-	-	
Licenses and Permits	1,782	-	-	-	
Fines and Forfeitures	-	-	-	-	
Use of Money & Property	-	-	-	-	
Revenue from Other Agencies	-	-	-	-	
Charges for Services	-	-	-	-	
Other Revenues	10,184	5,000	5,000	5,000	
Interfund Services - Charges	-	-	-	-	
Intrafund Services - General Fund Charges	-	-	-	-	
Harbor & Water P/R Rev Trsfs	-	-	-	-	
Other Financing Sources	-	-	-	-	
Operating Transfers	-	-	-	-	
Total Revenues	11,966	5,000	5,000	5,000	
Expenditures:					
Salaries, Wages and Benefits	9,382,493	10,805,196	10,805,196	10,951,760	
Overtime	1,570	400	400	400	
Materials, Supplies and Services	403,133	384,281	384,281	384,281	
Internal Support	(1,332,240)	(1,208,182)	(1,208,182)	(1,084,174)	
Capital Purchases	14,565	-	-	-	
Debt Service	-	-	-	-	
Transfers to Other Funds	-	-	-	-	
Total Expenditures	8,469,521	9,981,695	9,981,695	10,252,267	
Personnel (Full-time Equivalents)	67.25	69.25	69.25	69.25	

<sup>\*</sup> Amounts exclude all-years carryover.

# **Personnel Summary**

Classification	FY 15 Adopt FTE	FY 16 Adopt FTE	FY 17 Prop FTE	FY 16 Adopted Budget	FY 17 Proposed Budget
Oite Attama	4.00	4.00	4.00	070 700	070 400
City Attorney	1.00	1.00	1.00	273,789	279,420
Assistant City Attorney	2.00	2.00	2.00	437,250	437,250
Deputy City Attorney Executive Assistant	13.00	14.00	14.00	1,951,538	1,945,877
	2.00	2.00	2.00 1.00	187,345	187,345
Investigator II	1.00	1.00		96,633	96,633
Investigator III	2.00	2.00	2.00	202,569 78,338	202,569 83,998
Law Clerk	1.00	1.00	1.00		
Legal Administrator	1.00	1.00	1.00	123,372	123,372
Legal Assistant	2.00	2.00	2.00	137,708	137,708
Legal Assistant I	1.00 3.00	1.00 4.00	1.00 4.00	59,209 283,233	59,209 282,189
Legal Assistant III	5.00	5.00	5.00	263,233 372,395	
Legal Assistant IV	1.00	1.00	1.00	85,144	372,395 86,188
Legal Assistant-Subrogation				50,471	
Legal Office Assistant Legal Office Specialist	1.00	1.00	1.00	106,175	50,471
•	2.00	2.00	2.00		106,175 82,157
Legal Records Management Supervisor	1.00 2.00	1.00 2.00	1.00 2.00	82,157	,
Legal Records Specialist Legal Systems Support Specialist				100,942	100,942
0 , 1, 1	1.00	1.00	1.00	77,299	77,299
Liability Claims Assistant II	1.00	1.00	1.00	60,253	60,253
Manager-Workers' Compensation	1.00	1.00	1.00	115,752	115,752
Office Specialist	0.25	0.25	0.25	23,299	23,299
Paralegal	1.00	1.00	1.00	85,963	85,963
Principal Deputy City Attorney	4.00	4.00	4.00	679,942	692,257
Senior Deputy City Attorney	2.00	2.00	2.00	320,499	308,184
Senior Workers' Comp Claims Examiner	2.00 1.00	2.00 1.00	2.00 1.00	199,717	199,717
Workers' Comp Administrative Assistant	2.00	2.00	2.00	78,699	78,699
Workers' Comp Claims Assistant				151,330	151,330
Workers' Comp Claims Examiner	5.00	5.00	5.00	425,159	425,159
Workers' Comp Office Assistant II Workers' Comp Medical Only Examiner	5.00 1.00	5.00 1.00	5.00 1.00	261,240	261,240 62,254
Workers Comp Wedical Only Examiner	1.00	1.00	1.00	62,254	02,234
Total Salaries	67.25	69.25	69.25	7,169,673	7,175,305
Overtime	_	_	_	400	400
Fringe Benefits	[	_ [	_	3,499,020	3,662,753
Administrative Overhead		_	_	136,503	147,933
Attrition/Salary Savings	[	_ [	_	-	(34,231)
Expenditure Transfer	-	-	-	<u>-</u>	-
Total	67.25	69.25	69.25	10,805,596	10,952,160

### **Key Contacts**

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